

Probate District: Halifax, NS

Probate Court File No: 54262

COURT ADMINISTRATION
OFFICE

JUN 12 2012
HALIFAX, N.S.

IN THE COURT OF PROBATE FOR NOVA SCOTIA

IN THE ESTATE OF MARY ELLEN THIBEAULT, Deceased

[Removal of Executor]
Notice of Application
(S. 64(3)(a))

The applicants Gregory Oldfield, Elizabeth Herritt, Catherine Ivany, Raymond Ivany, Phyllis Brunt, Sharon Mahoney and Peter Halleran have applied to the ~~Registrar of Probate Court~~ ^{Judge} Probate Court of Nova Scotia, at the Probate District of Halifax, 1815 Upper Water Street, Halifax, Nova Scotia, B3J 1S7 for removal of the Executor Peter Kelly to be heard on ~~day, month and day, year, at~~ ^{9:30 a.m.} ~~SEPTEMBER 19, 2012~~ ^{SEPTEMBER 19, 2012}

The affidavit of Gregory Oldfield, Elizabeth Herritt, Catherine Ivany, Raymond Ivany, Phyllis Brunt, Sharon Mahoney and Peter Halleran in Form 46, a copy of which is attached to this Notice of Application, is filed in support of this application. Other materials may be filed and will be delivered to you or your lawyer before the hearing.

NOTICE:

If you contest any part of the application you must complete and file a notice of objection in Form 47 with the court, and then serve the notice of objection on the applicant and the personal representative.

If you do not file and serve a notice of objection you will not be entitled to any notice of further proceedings and you may only make representations at the hearing with the permission of the registrar or judge.

If you do not come to the hearing in person or as represented by your lawyer, the court may give the applicant what they want in your absence. You will be bound by any order the court makes.

Therefore, if you contest any part of this application, you or your lawyer must file and serve a notice of objection in Form 47 and come to the hearing.

Signature of applicant

Date

Name: Gregory Oldfield
Complete address: 3037 Connaught Avenue, Halifax, NS B3L 3A6
Telephone: (902) 455 - 1707
Fax: n/a
E-mail: n/a

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New Brunswick | Newfoundland and Labrador | Nova Scotia | Prince Edward Island

June 22, 2011

Without Prejudice

Via Fax: 492-1697

Mr. Lloyd Robbins
Quackenbush, Thomson & Robbins
2571 Windsor Street
Halifax, NS B3K 5C4

Dear Mr. Robbins:

Re: The Estate of Mary E. Thibeault - #54262

I have now had an opportunity to meet with the Executor regarding the various issues raised in your letter of June 6, 2011. My client's position is as follows:

1. Mr. Kelly will agree to resign as Executor and will provide an Accounting, subject to your client's agreement with the contents of this letter.
2. Mr. Kelly will refund the Estate the sum of \$145,000.00 representing a reimbursement of cheques previously written to himself and his two children. He will require 60 days from the date of your confirmation of this proposal for settlement to arrange for the funds.

You had mentioned that Mr. Kelly had written five cheques to himself in the amount of \$5,000.00 each, totally \$25,000.00. He agrees that this amount will be deducted from his 5% share allotted for in the Will of Ms. Thibeault. Any balance owing from the 5% will be paid to him upon the wind-up of the Estate.

3. The accounts of Cox & Palmer will be presented as part of the Accounting. However I will be requiring your client's support of same when the Accounts are presented to the Registrar of Probate. I am not prepared to debate individual entries. My work was done for the Estate, and if we are able to achieve a settlement it will be in large measure due to my efforts and Mr. Kelly's willingness to co-operate. This will also include fees to be incurred in bringing this matter to a mutually satisfactory conclusion.

Harry D. Thompson, Q.C. | Partner

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4. If we are able to achieve a settlement of all outstanding matters as contained herein, you clients will keep this agreement and all matters relating to Mr. Kelly's handling of the estate strictly confidential. I will require a document from you signed by each of your clients confirming confidentiality.
5. I have spoken to Mr. Kelly about the disposition of the mobile home. He has informed me that he first verbally offered the mobile home to the personal beneficiaries named in Ms. Thibeault's Will, but no one expressed an interest in acquiring same. He continued to pay the lot rental of approximately \$200 per month. The mobile home was in poor repair and needed some work. The furniture was well used and worn and was given to the Salvation Army. Mr. Kelly did receive an offer to purchase the mobile home of \$3,000.00 but nothing materialized from this offer. Taxes were accruing on the mobile home until the taxes owing roughly equalled the value of it. Hence it was sold for taxes. This value of the mobile home was obviously not of any significant monetary value and it was located 2,400 miles from Nova Scotia. If your clients wish to make an issue of this matter, most of the evidence would be sketchy at best. Mr. Kelly is prepared to agree to settle the various issues proposed herein if the matter of the mobile home is put to rest. It is unfortunate that some or all of your clients consider Mr. Kelly's dealing with the mobile home as an act of dishonour to Ms. Thibeault. That certainly was not his intention. It would have been an easier problem to resolve had the mobile home been geographically closer to Halifax. The fact is, however, that it was not, and under the circumstances Mr. Kelly dealt with the matter with the best of intentions and what seemed to him to be the most reasonable thing to do at the time.

The above represents my client's efforts to settle all outstanding matters in a fair and reasonable manner. I trust that your clients will be of the same opinion. It seems to me that issues 1 and 2 are the primary ones that should concern your clients. If some or all of your clients remain upset such that they want to debate the less significant issues, then their alternative is to contest all issues in the Court of Probate. Should this happen, we are unlikely to obtain a date for the hearing until late Fall, protracting the time and costs in this matter.

I look forward to your reply when you have an opportunity to confer with your clients.

Yours very truly,



Harry D. Thompson, Q.C.
HDT/rr
Encl
cc: Peter Kelly.